

16 IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 3rd DAY OF APRIL 1998

PRESENT

THE HON'BLE MR.R.P.SETHI,CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE V.GOPALA GOWDA

WRIT PETITION NUMBERS

13882,18927,18939,20778,22146,22220,22400,22571,22593,22594,22879,22977 AND 23003 OF 1997

W.P.No.13882 /1997:

Between:

1. Jamakandi Zilla Horata Samithi,
Jamkdandi,
Rep.by its President,
Sri.Tatasaheb Bangi,
No.2099, Basava Nivas,
Mudhol Road,
Jamkhandi.
2. Sri.Ravindra,
S/O Sri.Dhanawant,
Halingali,
45 years,
Advocate, President,
Bijapur District Mines Workers'
Union Ltd., at Jamkhandi.
3. Sri.Jagdish Keshav Tungal,
42 years, Advocate, Legal Advisor, Power Looms
Workers' Union, Banahatti, Tq.Jamkhandi.

888-943

4. Sri.Ningappa Venkatappa Doddamani,
51 years, Advocate & Agriculturist,
at Jamkhandi.
5. Sri.Shantappa Esappa Khidrapur,
47 years, Occ:Agriculturist as
Social Worker & Former Pradhan
Alagur Mandal Panchayat, Alagur Taluk,
Jamkhandi.
6. Shri.L.N.Lalsangi,
aged 49 years, Agriculturst,
R/o Nandeshwar,
Taluk:Atahni,
Dist. Belgaum.
- 7.Shri.Shankar Ramappa Bilgi,
aged 36 years, Agriculturst,
R/o Haeugeri,
Taluk:Rayabhag,
Dist.Belgaum.
- 8.Shri.Venkatesh Shripad Phadue,
aged: 85 years, Social Worker,
Former Speaker of Jamkhandi
Legislative Assembly,
R/o Jamkhandi,
Dist.Bijapur.
- 9.Shri.Mallappa Satappa Kajagar,
Aged 30 years, Agriuculturist & Advocate,
R/o Mudhol.
Dist.Bijapur.
- 10.Shri.Shankar Somashekhar Kori,
aged 36 years, Trader,
R/o Satti, Taluk:Athani,
Dist. Bijapur.

11. Shri.Venkappa Veerappa Pattar,
aged 69 years, Advocate,
Ex-Minister of Karnataka,
R/o Jamkhandi,
Dist.Bijapur.
12. Shri.Hanamant Rudrappa Nirani,
aged: 31 years, Agriculturist & Advocate
R/o Inam-Hongal, Taluk:Bilagi,
Dist.Bijapur.

Petitioners

(By Sri.S.M.Chandrashekar, Advocate)

And:

1. The State of Karnataka,
Department of Revenue,
Rep.by its Secretary,
Govt.of Karnataka,
Multistoreyed Building ,
Dr.Ambedkar Veedhi,
Bangalore-560 001.
- 2.The Divisional Commissioner,
Belgaum.
- 3.The Deputy Commissioner,
Bijapur.

Respondents

(By Sri.A.V.Srinivasa Reddy, Additional Govt.Advocate)

W.P.No.18927/1997:

Between:

Ratna Kumar M.

S/o N.Nemiraja Shetty, aged 53 years,

B-1, Housing Colony,

Bejai New Road,

Mangalore,D.K.

Petitioner

(By Sri.Sanath Kumar Shetty K.Advocate)

And:

State of Karnataka,
rep.by its Secretary,
Department of Revenue,
M.S.Building,
Dr.Ambedkar Veedhi,
Bangalore-560 001.

Respondent

(By Sri.S.Vijayashankar, Advocate General with
Sri.A.V.Srinivasa Reddy, Additional Govt.Advocate)

W.P.No.18939/1997:

Between:

Taluka Rachana Horata Samithi,
Savalagi, Dist.Bijapur.
Reptd. By its Presidkent,
Sri.Rajkumar S.Patil,
S/o Siddanagouda Patil,
Aged Major,
R/o Savalagi,
Tq.Jamkhandi,Bijapur Dist.

Petitioner

(By Sri.M.H.Sawkar, Advocate)

And:

1. The State of Karnataka,
Reptd.by its Chief Secretary,
Vidhana Soudha,
Bangaore-1.

2. The State of Karnataka,
Reptd. By its Secretary,
Revenue Department,
M.S.Building,
Bangalore-1.

3. The Divisional Commissioner,
Belgaum Division,
Belgaum.

4. The Deputy Commissioner,
Bijapur District,
Bijapur.

Respondents

(By Sri.A.V.Srinivasa Reddy, Additional Govt. Advocate)

W.P.No.20778 /1997:

Between:

1. Sri.D.Narayandas,
age: 58 years,
s/o D.Narasimha Das, M.L.A.,
Resident of Harpanahalli,
Dist.Bellary.
2. Sri.S.Veerappa, 55 years,
s/o Shanthabasappa,
President, Zilla Panchayat,
Bellary, R/o Chigateri,
Harapanahalli Taluk,
Bellary Dist.
3. Smt.N.Kasturamma, Age: 50 years,
W/o N.Manjunath,
Presidkent, Town Panchayat,
Harapanahalli, Dist.Bellary.
4. Sri.C.Chandrahsekhara Bhat,
Age: 37 years, S/o C.Prahalada Bhat,
Advocate & Ex-Municipal Councillor ,
Harapanahalli, Bellary Dist.,.
5. Sri. T.H.M. Virupakshaiah,
55 years, s/o Shambulingaiah, Advocate,
Harapanahalli, Dist.Bellary.

6. Sri.A.Gf.Vishwanath, 36 years,
s/o Bettappa, President: A.P.M.C.
Harapanahalli, Dist.Bellary.
7. Sri.K.M.Gurusiddaiah, 40 years,
s/o Prasadaiah, President:P.C.A.R. & D Bank,
Harapanahalli, DistBellary.
- 8.Mohamd Hanif, 40 years,
s/o Abdul Rahim,
General Secretary: Anjuman-E-Islam Muslim,
Harapanahalli, Dist.Bellary.
- 9.Sri.K.M.Vamadevaiah, 60 years,
s/o Veeraiah, Director:KARNATAKA
State Co-operative Agricultural and Rural
Development Bank,
R/o Harapanahalli, Dist.Bellary.
- 10.Sri.S.Sreekrishna, 55 years,
S/o Subbanna, Presidkent, SC/ST Congress Cell;
of Bellary District: R/o Harapanahalli, Dist.of Bellary.
- 11.Sri.M.P.M.Revansiddaiah,
51 years, s/o M.P.M.Basavangoud,
President:Taluk Association of
Working Journalist, Harapanahalli,
Bellary Dist.
- 12.P.Venkatesh, 60 years,
s/o Krishnappa, President:
Tax Consultants Association,
Harapanahalli, Dist.Bellary.
- 13.Sri.B.Bhemappa Setty, 45 years,
President, Merchants Association,
Harapanahalli, Bellary Dist.

14. Deputy Abdul Rahiman,
36 years, s/o D.Md. Yusuf Saheb,
Advocate, & President, Anjuman-E-Islam,
Harapanahalli, Dist., Bellary.

15. K. Fakruddin Saheb,
50 years, s/o Budin Saheb,
Ex-President, VSSN &
Ex-Town Municipal Council,
Harapanahalli,
Dist. Bellary.

16. Sri. Sadasivappa,
60 years,
S/o Dilleppa,
Ex.Mandal Chairman,
R /o Duggavathi,
Harapanahalli Taluk,
Bellary Dist.

Petitioners

(By Sri.K.S.Desai & Harish Desai, Advocates)

And:

1. The State of Karnataka,
by its Secretary to Revenue Department,
Vidhana Soudha,
Bangalore.

2. The Chief Secretary,
Govt. of Karnataka,
Vidhana Soudha,
Bangalore.

3. The Deputy Commissioner,
Bellary Dist, Bellary.

Respondents

(By Sri.A .V.Srinivasa Reddy, Addl.Govt.Advocate)

W.P.No.22146/1997:

Between:

1. Sri.M.Siddapa,
s/o Sri./Gowdramanjappa,
Taluk Panchayat President
aged about 38 years,
residing at Palavanahalli,
Chatnahalli Post,
Honalli Taluk,
Dist.Shimoga.

2. Sri.T.Gangappa
s/o Sri.Thirukappa,
Taluk Panchayat Member,
aged about 45 years,
residing at Surahonne,
Honalli Taluk,
Shimoga Dist.

3. Sri.Jagadish H.K.,
s/o Sri.H.Kantappa,
Taluk Panchayat Member,
aged about 33 years,
residing at Cheelur,
Pin-577 230,
Honalli Taluk,
Shimoga Dist.

Petitioners

(By Sri.Vinod Prasad, Advocate)

And:

State of Karnataka,
by its Secretary to Revenue Department,
MS Building, Bangalore.

Respondents

(By Sri.S.Udayashankar, Advocate General with
Sri.A.V.Srinivasa Reddy, Addl.Govt.Advocate)

W.P.No.22220/1997:

Between:

Zilla Vingadana Virodhi Horatha
Samithi Channagiri,
by its executive Members:

1. Somalapur Nagaraj
s/o T.S.Ramappa,
aged about 37 years,
R/o Somalapur village,
Channagiri Tq., Shimoga Dist.
2. Bulasagara Siddarmappa
s/o Smt.Gowramma
aged about 40 years
R/o Bulasagara villge,
Channagiri Tq., Shimoga Dist.
3. B.K.Nagaraj,
s/o Kariyappa,
aged about 32 years,
R/o Bussenahalli village,
Agrabanahatti Post.,
Channagiri Tq.,
Shimoga Dist.
4. C.R. Annaiah/s/o C.M.Rangaiah,
aged about 34 years,
R/o Channagiri Town,
Shimoga Dist.

Petitioners

(By Sri.M.R.Rajagopa, Advocate)

And:

1. State of Karnataka, by its
Secretary, Dept. of Revenue,
Vidhana Soudha, Bangalore.

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2. Chief Secretary,
Govt. of Karnataka,
Vidhana Soudha,
Bangalore-1.

3. The Deputy Commissioner,
Shimoga District, Shimoga.

Respondents

(By Sri.A.V.Srinivasa Reddy, Addl.Govt.Advocate)

W.P.No.22400 /1997:

Between:

1. H.B.Krishna Murthy,
S/o H.B.Kada Siddappa,
aged about 45 years,
Member, Karnataka Legislative
Assembly,
Surveyaarkere, Honnali Taluk,
Shimoga District.

2. Veereshappa H.
s/o Thirthappa H.
aged about 26 years,
Nehru Road, Nyamathi,
Honnali Taluk, Shimoga District.

Petitioners

(By Sri.A.K.Subbaiah, Advocate)

And:

The State of Karnataka, by its Secretary,
Department of Revenue,
M.S.Building, Dr.Ambedkar Veedhi,
Bangalore-560 001.

Respondent

(By Sri.S.Vijayakshankar, Advocate General with
Sri.A.V.Srinivasa Reddy, Addl.Govt.Adv.)

W.P.No.22571/1997:

Between:

- 1.Prakaksh Shivappa Manakatti,
Major, Occ:Agriculture & Secretary of
Shiggaon Taluk Horata Samithi, Shiggaon,
Dharwad Dist.
- 2.Srikant Gopalarao Udapi,
Major,Electrical Contractor,
R/o Shiggaon, Shigaon Taluk,
Dharwad District.,
- 3.Jagadishagouda Bapugouda
Policegoudar, Major,
R/o Bannur village,
Shiggaon Taluk,
Dharwad Dist.
- 4.M.Basavakraj,
major, R/o Chikkamathur,
Shiggaon Taluk,
Dharwad District.

Petitioners

(By Sri.F.V.Patil, Advocate)

And:

- 1.The State of Karnataka,
rep.by the Secretary to Government,
Revenue Department,
M.S.Building,
Bangalore-560 001.
- 2.The Deputy Commissioner,
Dharwad District,
Dharwad.

3. M.C.Kunnur,
Major, M.L.A. of Shiggaon Taluk,
Shiggaon, Dharwad Dist.

Respondents

(By Sri.S.Vijayashankar, Advocate General with
Sri.A.V.Srinivasa Reedy, Addl.Govt,Advocate for R-1 & R-2.
Sri.Jayakumar S.Patil, Advocate for R-3)

W.P.No.2293/97:

Between:

1. Virupakshapa K.
s/o Veerappa
aged 50 years,
Occ:M.L.A.,
Post & Tq:Sindhanoor,
Dist.Raichur.

2. Syed Mehaboob Hussain
s/o Mehaboobsab,
age: major,
President, Youth Congress(I),
Sindhanoor Taluk & PO,
Dist.Raichur.

3. Virupakshappa,
s/o Pampapathappa,
age: major,
Occ: Director APMC & Secretary
Naik Samaj R/o Sindhanor,
Dist.Raichur.

4. Venkanagouda,
s/o Amaregouda,
Age: Major,
Occ: President,
All India Trade Union Congress,
Sindhanoor, Dist.Raichur.

Petitioners

(By Sri.B.V.Acharya, Senior Counsel for
Sri.Shivakumar Kalloor, Advocate)

And:

1.State of Karnataka,
Revenue Department,
by its Secretary,
Vidhana Soudha,
Bangalore.

2.The Deputy Commissioner,
Raichur District,
Raichur.

3.Chief Secretary,
Government of Karnataka,
Vidhana Soudha,
Bangalore-560 001.

.. Respondents

(By Sri.S.Vijayashankar, Advocate General with
Sri.A.V.Srinivasa Reddy, Addl.Govt.Advocate)

W.P.No.22594/1997:

Between:

1.Raichur District Chamber of
Commerce & Industry,
Lingasugur Road, Raichur,
Dist.Raichur, Represented by its
Secretary Sri.Ramachandra Prabhu,
s/o N.R.Prabhu,
age: 40 years, R/o Raichur,
Dist.Raichur.

2.Ramachandra Reddy
s/o Giovinda Reddy,
Age 46 years,
Occ:President,
Raichur Zilla Panchayat,
Raichur Dist.

3. Eranna, s/o Sawarappa,
age: 45 years, President,
City Municipality Raichur,
Dist. Raichur.
4. Abdul Samad Siddiqui
s/o Abdul Basheer,
age: 55 years
Ex.M.P. & Secretary,
Lokashakthi,
R/o Raichur,
Dist. Raichur.
5. Kalloor Mahadevappa,
s/o Siddanna,
Age: 65 years,
Occ: President & Advocate,
Lokshakthi, Raichur District,
R/o Raichur.
6. Kashi Rao Patil s/o Channabasappa
age: 70 years,
Occ: Freedom Fighters,
R/o Raichur.
7. Shaik Rizawan
s/o Shaik Fareed,
age: 48 years,
Occ: President,
Raichur Taluka Janatha Dal
PO & Dist. Raichur.
8. Mohamed Omar,
s/o Abdul Rehman
Ex-MLA, age: 60 years,
PO & Dist. Raichur.

9. N.Bosraju,
s/o Subbaraju,
age: 55 years, Occ:President,
Raichur District Congree (I),
PO & Dist. Raichur.

Petitioners

(By Sri.B.V.Acharya, Senior Advocate for
Sri.Shivakumar Kalloor, Advocate)

And:

1. State of Karnataka,
Revenue Department,
by its Secretary,
Vidhana Soudha,
Bangalore.

2. Deputy Commissioner,
Raichur,
Dist.,Raichur.

3. Chief Secretary,
State of Karnataka
Vidhana Soudha,
Bangalore.

Respondents

(By Sri.S.Vijayashankar, Advocate General with
Sri.A.V.Srinivasa Reddy, Addl.Govt.Advocate)

W.P.No.22879/1997:

Between:

Dayanath Kotian,
S/o K.B.Kotian,
aged about 54 years,
residing at KHB Coloy,
Kunjathbail,
Mangalore-15, D.K.

Petitioner

(By Sri.Sanath Kumar Shetty K.)

And:

1.State of Karnataka,
rep.by its Secretary,
Dept.of Revenue,
M.S.Building,
Dr.Ambedkar Veedhi,
Bangalore-560 001.

2.Union of India,
by its Secretary to the
Department of Law Justice and Company
Affairs, Shastri Bhavan,
New Delhi.

Respondents

(By Sri.S.Vijaya Shankar,Advocate General with
Sri.A.V.Srinivasa Reddy, Addl.Govt.Advocate for R-1)

W.P.No.22977/1997:

Between:

1.Advocates Bar Association,
Nargund, by its Presidken
Shri.B.S.Patil,
Advocate, aged about 48 years,
residkent of Nargund Taluk, Nargund

2.Shri.M.G.Dandin,
Agriculturists & Social Worker,
aged about 52 years,
resident of Nargund Taluk, Naragund.

3. Cotton Merchant Association (Regd.)
Naragund, by its President,
Shri.C.H.Kori, aged about 50 years,
Kori Complex,
Naragund.

4. Shri. S. V. Bonageri,
President Lions Club,
Naragund Taluk, Naragund.

5. Naragund Taluk Raitha Sangha (Regd.),
by its President,
Shri. Sambhaji Kasid,
aged about 45 years,
Gadiani,
Naragund.

6. Shri. F. Y. Doddamani,
Member, TMC, Naragund & President,
Naragund Taluka Dalit Vakuta
Naragund taluk, Naragund.

Petitioners

(By Sri. Vinod Prasad & Sri. C. S., Patil, Advocates)

And:

State of Karnataka,
by its Secretary to Revenue Dept.,
Vidhana Soudha, Bangalore.

Respondent

(By Sfri. S. Vijayashankar, Advocate General with
Sri. A. V. Srinivasa Reddy, Addl. Govt. Advocate)

W.P.No.23003/1997:

Between:

Sri. Raja Reddy Desai
S/o Shivaram Reddy Desai,
Major, Advocate,
R/o Yadgir
Taluk: Yadgir,
Dist. Gulbarga.

Petitioner

(By Sri. Basava Prabhu S. Patil, Advocate)

And:

1. State of Karnataka
by its Secretary,
Revenue Department,
Vidhana Soudha,
Bangalore-1.
2. Sri.J.H.Patil,
Hon'ble Chief Minister,
Government of Karnataka,
Vidhana Soudha,
Bangalore.
- 3.Divisional Commissioner,
Revenue Division,
Gulbarga Division,
Gulbarga.
- 4.The Deputy Commissioner,
Gulbarga District,
Gulbarga.

Respondents

(By Sri.S.Vijayashankar, Advocate General with
Sri.A.V.Srinivasa Reddy ,Addl.Govt,Advocate)

W.P.No.13882/1997 is filed under Articles 226 and 227 of the Constitution of India, praying to declare that the formation of a District Headquarters at Bagalkote, as per the decision dated 8-4-1997 taken by the Government of Karnataka is illegal, etc.

W.P.No.18927/1997 is filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari quashing the Notification No.RD 42 L.RD 87(P-III) dated 16-6-1997 and Serial No.8 and its Column No.4 in Schedule-I and Serial No.7 and

its column No.2,3 and 4 in Schedule II appended thereto vide Annexure-A , etc.

W.P.No.18939/1997 is filed under Articles 226 and 227 of the Constitution of India,praying to issue a writ of certiorari, quashing the Notification issued by the 2nd Respondent vide No.RD 42 LRD 87 dated 16-6-1997-Annexure-A, etc.

Writ Petition No.20778/1997 is filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus directing the State Government to form a new District of Harapanahalli within the Bellary District itself with the Taluks of Hadagali, Hagaribommanahalli, Koodaligi, for better administration in the interest of justice, etc.

W.P.No.22146/1997 is filed under Articles 226 and 227 of the Constitution, praying to issue a writ of certiorari, quashing the Notification No.RD.42.LRD.87(P-III) dated 2-8-1997 vide Annexure-F, in so far as it relates to Honalli Taluk of Shimoga District, etc.

W.P.No.22220/1997 is filed under Articles 226 and 227 of the Constitution of India, praying to issue a writ of certiorari, quashing the Notification dated 16-6-1997 as well as 2nd Aug.1997-Annexure-A,etc,

W.P.No.22400/1997 is filed under Articles 226 and 227 of the Constitution of India, praying to issue a writ of certiorari, quashing

the Notification No.RD 42 LRD87 (P.III), dated 2nd August,1997, produced at Annexure-E as inoperative and void, etc.

W.P.No.22571/1997 is filed under Articles 226 and 227 of the Constitution of India, praying to issue a writ of certiorari quashing the Notification-Annexure-B, issued by Respondent No.1 in No.RD 42 LRD 87(P-III), dated 2nd August,1997, in so far as it relates to the inclusion of Shiggaon Taluk in Haveri District, pursuant to Annexure-B, etc.

W.P.No.22593/1997 is filed under Articles 226 and 227 of the Constitution of India praying to issue a writ of Certiorari, quashing the Notification-Annexure-A dated 4-8-1997 in No.RD 42 LRD 87 (P-III) issued by Respondent No.1 in so far as it relates to inclusion of Sindhanoor Taluks in Koppal District is concerned,etc.

Writ Petition No.22594/1997 is filed under Articles 226 and 227 of the Constitution of India, praying to issue a writ of Certiorari, quashing the Notification No.RD 42:LRD:87(P-III) dated 4-8-1997 as Annexure-A issued by the Respondent No.1 in so far as it relates to inclusion of Sindhanoor Taluks in Koppal District is concerned, etc.

W.P.No.22879 /1997 is filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari, quashing

the Notification No.RD 42 LRD 87(P-III) dated 2-8-1997 as per Annexure-A and Serial No.7 and its column No.4 in Schedule -I and Serial No.6 and its column No.2,3 and 4 in Schedule II appended thereto vide Anneure-A, etc.

W.P.No.22977/1997 is filed under Articles 226 and 227 of the Constitution of India, praying to issue a writ of certiorari, quashing the Notification No.RD 42.LRD.87(P)-III dated 2-8-1997 vide Annexure-D in so far as it relates to Naragund Taluk of Dharwad District at Sl.No.6 in Schedule-I(for Dharwad District) and No.4 in Schedule-II of the proposed Gadag District are concerned, etc.

Writ Petition No.23003/1997 is filed under Articles 226 and 227 of the Constitution of India , praying to issue a writ of mandamus, directing the Responents to bifurcate Gulbarga District in accordance with the recommendations made by the District Reorganisation Committees headed by Sri.T.M.Hundekar and Sri.P.C.Gaddigoudar, etc.

The Petitions having been heard and reserved for Orders, on this day, the CHIEF JUSTICE made the followng:

ORDER

ORDER

In all these Petitions, the main question requiring determination is the constitutionality and legal validity of the action of the Respondents in creating new Districts in the State of Karnataka under the provisions of the Karnataka Land Revenue Act, 1964 (hereinafter called the 'Act'). In W.P.Nos 18927/97 and 22879/97, the Petitioners have challenged the legislative competence of the State Legislature to enact the Act under the constitutional scheme as enshrined in Part XI read with Seventh Schedule of the Constitution. In most of the Petitions, the impugned action is challenged on the alleged ground of non-consideration of objections submitted by the objectors in response to the Notification issued in terms of Section 6 of the Act.

2. In W.P.No.23003/97, a prayer has been made for issuance of direction to the Respondent-State for splitting Gulbarga District allegedly on the basis of recommendations made in that behalf.

However, in W.P.Nos 22571/97, 22593/97 and 22594/97 the action of the Respondents for inclusion of

some Taluks in the newly carved Districts has been challenged for alleged violation of mandatory provision of Section 6 of the Act.

3. We have heard the learned Counsel for the parties and perused the record in all the Writ Petitions.

4. In W.P.Nos.18927/97 and 22879/97 the Petitioners have alleged that the power to create new Districts or alter the extent of boundaries of any District enables the State Government to change the boundaries, which is not permissible, as the subject of legislation does not fall in the State List of the Seventh Schedule of the Constitution. Entries 18 and 45 of the State List of the Seventh Schedule are alleged to be not giving any scope for enacting legislation providing for alteration of boundaries of Districts or Division of Districts. It is submitted that the power to alter the extent of boundaries of any District in any State is within the exclusive jurisdiction of the Union Parliament falling within the ambit of the Union List of the Seventh Schedule of the Constitution. The

Petitioners have also challenged the validity of Section 7 of the States Reorganisation Act, by which such a power is reported to have been delegated in the State Legislature. It is submitted in the alternative that even if Section 4 of the Act and Section 13 of the States Reorganisation Act was valid, the Notification dated 16th June, 1997 issued thereunder is unconstitutional being violative of the fundamental right enshrined under Article 29(1) of the Constitution..

Vide I.A.I filed in W.P.No.18927/97 the Petitioners have prayed for amendment of the Writ Petition to raise the plea regarding the constitutional validity of Section 4 of the Act and Sections 13 and 15 of the States Reorganisation Act.

5. Part XI of the Constitution deals with the distribution of legislative powers between the Union and the States. Under Article 245 of the Constitution, Parliament has the plenary power to make laws for the whole or any part of the Union territory and the Legislature of a State for a whole or any part of the State with respect to the matters

enumerated in List-I and List-II respectively of the Seventh Schedule.

Entry 45 of the State List authorises the State Legislature to make laws with respect to:

“ Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues”.

Entry 18 provides :

“ Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization” .

Under the aforesaid entries the State Legislature is competent to enact law relating to land and the land revenue administration in the State of Karnataka. The

Preamble to the Act clearly shows that it has been enacted to consolidate and amend the law relating to land, the assessment and recovery of land revenue, the land revenue administration and other matters connected therewith.

Chapter II of the Act deals with the constitution and powers of the Revenue Officers. Section 3 provides that the State shall be the Chief Controlling authority in all matters connected with land and land revenue administration under the Act. Section 4 authorises the Government to divide the State into Divisions, Districts and Taluks comprising of Circles and Villages. Section 8 authorises the State Government to appoint a Deputy Commissioner to be incharge of a District with authority to exercise all the powers and discharge all the duties conferred and imposed on him under the Act or under any law for the time being in force. Section 9 authorises the State Government to appoint Special Deputy Commissioner; Section 10 to appoint Assistant Commissioners; Section 11 Tahsildars and Section 12 Special Tahsildars for the aforesaid purposes. The

power to divide the State into Divisions Districts and Taluks is for the purposes of consolidating the law relating to land, the assessment and recovery of land revenue and other matters connected therewith. A perusal of various chapters of the Act clearly and unequivocally shows the purpose for which the Act has been enacted.

6. In AMARSARJIT SINGH etc., vs.STATE OF PUNJAB (AIR 1962 SC 1305) it was argued that the law relating to resumption of jagirs being beyond the jurisdiction of the State unconstitutional Legislature was and invalid. Such a plea was resisted on the ground that as the resumption of jagir was connected with the land, the enactment made with respect to matters covered under Entries 18 and 45 was within the competence of State Legislature. Such a argument of the petitioner was rejected by the Apex Court holding :

“But then it is urged that the amendment was not within the legislative competence of the

Legislature of the State of Punjab and is null and void. The grounds therefor are thus stated in Petition No.82 of 1960:-

“This is nothing but a colourable legislation. The State legislature has no authority to convert Central Government into State Government and legislate on Central subject. The so-called jagir being not a grant by the State Government, the impugned Act has no application and the amended definition of State Government is a fraud on the Constitution”.

There is no substance in the contention that the Amendment Act is colourable and incompetent. The subject-matter of the legislation is resumption of jagirs. Though the contention was raised in the petitions that this was not a topic within the competence of the State Legislature, as there was no such entry in List II

to the Seventh Schedule, no argument was advanced in support of it. And clearly it could not be, as legislation on resumption of jagirs is one relating to lands, and land revenue, and would clearly fall under entries 18 and 45 of List II, which are as follows:-

Entry 18:- "Land , that is to say, rights in or over land, land -tenure including the relation of landlord and tenant, and the collection of rents transfer and alienation of agricultural land; land improvement and agricultural loans; colonization".

Entry 45:- "Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues".

If the principal legislation is intra vires, it is difficult to see how an amendment thereof with respect to matters properly pertaining to the subject-matter covered by it could be ultra vires. It is immaterial for the purpose of resumption, whether the

lands sought to be resumed were granted by the State of Punjab as it is now constituted or by any Government which preceded it. So long as the lands are within the State of Punjab, the legislature has full competence to enact a law providing for their resumption under entries 18 and 45 . Indeed if the words "made by or on behalf of the State Government" in S.2(1)(a) had been omitted in the principal Act and jagir defined simply as "any assignment of land revenue", the legislation would have been intra vires, and in that case the state could have resumed the jagirs by whomsoever they might have been granted. But it close to add the words "made by or on behalf of the State Government", and that gave, occasion for the contention that the legislation did not in fact reach jagirs granted by the British Government. Then, with a view to clarify the position, and set the controversy at rest, the legislature intervened and enacted the amendment Act of 1959, inserting

the impugned definition of "State Government". We are unable to see what the lack of vires is under which this amendment suffers. We must reject this contention also".

7. We are satisfied that the subject matter of the Act is covered by Entries 18 and 45 of the State List, which comprehend the power to legislate regarding the matters connected with land, collection of rent thereof, transfer and alienation of such, settlement of disputes relating to land, prevention of encroachments of public lands, removal of such encroachments, restriction or extinction of existing interests in the lands, consolidation proceedings relating to several parts of the land, fixing a ceiling for the holding of the land, cancellation of leases granted by ex-Rulers, improvement of the land, etc. The Act, therefore, cannot be held to be beyond the legislative competence of the State Legislature. There is no substance in W.P.Nos.18927/97 and 22879/97.

8. In W.P.No.23003/97 prayer is made for issuance of direction to the Respondents to bifurcate Gulbarga

District in accordance with the alleged recommendations made by the District Reorganisation Committee headed by Sri.T..Hundekar and Sri.P.C.Gaddigoudar. It is further prayed that Respondents be directed to constitute Yadgir District with Yadgir Town as its headquarter in accordance with the aforesaid Report.

9. It is contended that despite the aforesaid Report, the Government did not bestow any serious attention and consideration for the same being implemented. Second Respondent is stated to have given an assurance to the public that announcement shall be made on Ugadi Day of 1997 for the constitution of the District. The Petitioner has enumerated a number of reasons in support of his contention for creation of a new District of Yadgir out of the present District of Gulbarga.

10. We feel that despite there being a laudable object projected in the Writ Petition, no direction can be issued to the Respondents for creation of a new District or for bifurcating the present District of Gulbarga. To make a

prayer for issuance of a writ of mandamus, the Petitioner is equally under a legal obligation to show the existence of a subsisting right in his favour and a corresponding obligation upon the Respondent-State. No such subsisting right has been pointed out by the Petitioner nor any corresponding obligation upon the Respondents in that behalf. Mere recommendation by the Committees cannot create a right in favour of the Petitioners for claiming the creation of a District under the provisions of the Act.

11. W.P.No.23003/97 apparently appears to be misconceived, in which no relief can be granted. The Respondents may, however, appreciate the submissions made in the Petition⁸ and take appropriate action, if needed, under the provisions of the Act.

12. In W.P.Nos.22146/97, 22400/97 22977/97, 13882/97, 18939/97, 20778/97 and 22220/97 the action of the Respondents for creating Districts vide Annexures impugned therein with inclusion of some Taluks has been

challenged mainly on the ground of non-consideration of the objections filed in response to the Notifications issued proposing the creation of the Districts. It is submitted ^{that} the action of the Respondents being against the principles of natural justice was liable to be quashed. The action of the Respondents is stated to be against the public opinion and undemocratic. The impugned Notification is stated to be non-speaking. It is submitted that the Respondents were under a legal obligation to consider all the objections raised and incorporate the decision thereon in the impugned Notifications.

13. In reply the Respondents have submitted that sufficient and ample opportunity was given to file objections/representations by the affected persons. The Government had taken the due note of all the objections filed by individuals, the village panchayats and other bodies and upon consideration of the pros and cons and in the interests of better management and administrative convenience of the people, issued the impugned Notifications. The State claims to have not imposed any

decision against the will of the people .The reorganisation of the Districts is stated to be a long drawn process, which was under~~8~~ the consideration of the State Government for a long time, for which it had appointed three Commissions to examine and furnish their Reports. The objections filed by the persons or group of persons or panchayats or other bodies are stated to have been listed, analysed and considered carefully and critically before taking a final decision. It is contended that it is not the mandate of law to indicate the consideration of each and every objection filed.

14. We are of the opinion that in view of the statement of objections filed on behalf of the Respondents stating and reiterating the consideration of all the objections filed with respect to the proposals for creation of Districts no further action is required to be taken inasmuch as there is no obligation upon the State to specify and refer reasons in the impugned Notifications. Insisting for incorporating the reasons

for rejecting the objections in the Notification may be enormous and cannot be insisted upon.

15. The Supreme Court in SUNDARJAS KANYALAL BHATHIJA AND OTHERS VS. THE COLLECTOR, THANE, MAHARASHTRA AND OTHERS (AIR 1990 SC 261) held that the establishment of Municipal Corporation being the result of legislative process did not require the compliance of Rules of natural justice. In that case it was held:

“Reverting to the case, we find that the conclusion of the High Court as to the need to reconsider the proposal to form the Corporation has neither the attraction of logic nor the support of law. It must be noted that — the function of the Government in establishing a Corporation under the Act is neither executive nor administrative. Counsel for the appellants was right in his submission that it is legislative

process indeed. No judicial duty is laid on the Government in discharge of the statutory duties. The only question to be examined is whether the statutory provisions have been complied with. If they are complied with then, the Court could say no more. In the present case the Government did publish the proposal by a draft notification and also considered the representations received. It was only thereafter, a decision was taken to exclude Ulhasnagar for the time being. That decision became final when it was notified under Section 3(2) . The Court cannot sit in judgment over such decision. It cannot lay down norms for the exercise of that power. It cannot substitute even "its juster will for theirs".

16. This Court while exercising the powers under Article 226 of the Constitution of India cannot sit over the judgment of the executive or substitute its opinion for the opinion of the Government arrived at in accordance

with the procedure established and after consideration of the objections filed. To the same effect is the judgment of the Supreme Court in SATE OF U.P. & OTHERS VS. PRADHAN SINGH KSHETRA SAMITI & OTHERS (AIR 1995 SC 1512) and a Division Bench Judgment of this Court in W.A.Nos.4598/97 and connected matters , decided on 18th of September,1997. Therefore there is no merit in W.P.Nos.22146/97, 22400/97 and 22977/97 requiring interference by this Court.

17.In W.P.No.13882/97 it is alleged that Jamkhandi Taluk has wrongly been excluded from existing District of Bijapur and included in the newly created District of Bagalkot. It is further submitted that a direction be issued to the Respondents to establish the District Headquarter of a new District at Jamkhandi in the light of the detailed submissions made in para-36 of the petition, wherein it is stated:

“It may not be out of place to mention that the respondents have made two additional District Headquarters ie., Gadag, Haveri in Dharwar District, whose

area is lesser than that of Bijapur District. The Dharwar District has an area of 13,738 square Kms. And Bijapur has an area of 17,069 square Kms. It may not be prejudicial for any person to have one more District in Bijapur District, with one or two Taluks from the neighbouring District of Belgaum. The petitioners propose the establishment of a District Headquarters at Jamkhandi comprising of the following Taluks and villages:-

Sl. No.	Taluks	Area in sq.kms.	No.of Towns	No. of villages
1.	Jamkhandi	3,394	3	71
2.	Mudhol	2,206	2	77
3.	Bilagi	782	-	65
4.	Athni	1,996	1	89
5.	Rayabhaga	959	2	53
6.	Ramadurga	1,216	1	103
Total:-		10,553	9	458

18. As already noticed, we cannot substitute our opinion for the opinion of the Respondent State for either directing the inclusion or exclusion of a particular Taluk in a District.

We also cannot issue a mandamus directing the Respondents to establish the District Headquarter of a particular District at a particular place. The fact as to whether Bagalkot or Jamkhandi is to be made a District or Headquarter of a District is a matter within the purview of the Respondents, who apparently appear to have decided the same in accordance with the provision of the Act and the Rules made thereunder. It is however observed that the detailed facts narrated in the petition, may in future be taken note of by the respondent-State if and when they decide to create new Districts in the State of Karnataka.

19. In W.P. No. 20778/97 inclusion of Harapanahalli Taluk in the newly created District of Davanagere and its exclusion from the existing District of Bellary has been challenged upon the ground of non-consideration of the objections and the alleged preconceived notions or decision taken by the Government. It is submitted that inviting the objections was a mere formality, as according to the petitioners the Chief Minister of the Respondent-State vide his statement made on 25th of July, 1997 had declared his intention to inaugurate the Districts on the Independence Day

of the year. It is, however, conceded that the aforesaid statement was admittedly made after the expiry of the period prescribed under the Notification issued under section 6 of the Act. Making a statement regarding inauguration of the District cannot be made a basis to presume that the Government had decided to create the Districts without the consideration of the objections. Such objections might have been considered by that time by the State Government when the Chief Minister is reported to have made the statement. Otherwise also, the statement attributed to the Chief Minister is of general nature and does not refer to any particular District.

20. The prayer of the petitioners for issuance of direction to form a new District of Harapanahalli within the Bellary District comprising of Taluks Hadagali, Hagaribommanahalli, Koodalgi with headquarter at Harapanahalli cannot be allowed for the reasons noticed herein above while dealing with other similar petitions.

21. It has been argued by the learned counsel appearing for the petitioners in W.P.No.22220/97 that as the time gap between the issuance of Preliminary Notification and the Final Notification was of only 10 to 12 working days it should be inferred that the Deputy Commissioner had not consulted the Commissioner for Survey and Settlement and recommended the creation of the District without consideration of the objections. The Preliminary Notification is admitted to have been published in the Gazette on 16.6.1997 giving all the concerned an opportunity to file objections within one month. Final Notification is stated to have been issued on 2nd of August, 1997, that is, about 17 days thereafter. Non-consideration of objections cannot be inferred merely from the fact that as there were 17 days between the Preliminary and Final Notifications, the Respondents could not have considered the objections. Law presumes that every State action to have been done in good faith and in accordance with law, and unless the contrary is proved, no adverse inference can be drawn against the respondents as argued by the learned counsel for the petitioners.

22. Supplementing the arguments of the other learned counsel appearing for the petitioners in other writ petitions, the learned counsel who appeared in this writ Petition further added, that the impugned Notification was liable to be quashed in so far as it pertains to the District involved therein on account of the alleged violation of Rule 5 of the Karnataka Land Revenue Rules. According to him the Deputy Commissioner while forwarding all the objections to the State Government had not consulted the Commissioner for Survey and Settlement which was mandatory and the absence of such consultation rendered the Notification illegal to the extent pointed out in the petition. Rule 5 of the Rules provides:-

“5. Forwardal of objections by the Deputy Commissioners to the State Government:- On the expiry of the date specified in the notice issued under Section 6, the Deputy Commissioner shall in consultation with the Commissioner for Survey and Settlement examine the objections, if any received by him to the proposal and forward such objections with

his remarks thereon to the State Government through the Divisional Commissioner.”

23. In reply the respondents have submitted that compliance of Rule 5 was not necessitated under the circumstances of the case in as much as no one had raised any objection regarding the settlement or any other matter for which the Commissioner for Survey and Settlement could be required to be consulted by the Deputy Commissioner. It is further submitted that the consultation contemplated under the Rule is for the purpose of revenue administration convenience and does not deal with determining the rights of the persons objecting. It was stated at the Bar that if any of the petitioners even now has any objection relating to the Survey and Settlement records, he is at liberty to file his objections which shall be considered by the State Government in accordance with law. We find substance in the statement made on behalf of the respondents and are of the opinion that as no violation had been demonstrated regarding non-compliance of Rule 5, the impugned notification cannot be set aside on this ground. We refrain to comment upon the legal validity of Rule 5 in the context of Section 197 of the Act, which confers the powers upon the

State Government to make Rule. The irregularity pointed out is vague and ambiguous and not material. Mandatory compliance of the provisions of the Act persuade us not to accept such a plea advanced on behalf of the petitioners.

24. In W.P.Nos.22593 and 22594 of 1997 the impugned Notification dated 4-8-1997 issued by Respondent No.1 has been challenged only to the extent in so far as it relates to the inclusion of Sindhanoor Taluk in newly created District of Koppal. A prayer is made for issuance of direction to the Respondents for exclusion of the aforesaid Taluk from Koppal District and its inclusion in Raichur District.

25. In W.P.No.22571/97 the impugned Notification has been challenged to the extent in so far as it relates to the inclusion of Shiggaon Taluk in Haveri District by excluding it from the existing District of Dharwad.

26. The main ground of attack is that as the aforesaid two Taluks were never proposed to be included

in the New Districts, the Respondents were not justified for their inclusion later on without affording the concerned an opportunity of filing the objections. The action of the Respondents is stated to be contrary to the mandatory provisions of Section 6 of the Act. It is also submitted that the inclusion of the above named Taluks in the newly created Districts is actuated by political considerations, which have completely ignored the agricultural, social, educational, scientific and sentimental attachments of the people of the area.

27. The claim has been resisted by the Respondents firstly on the ground that there was no necessity of making a proposal and even if there was any necessity of making a proposal, the same was with respect to the new District, which had no reference to the Taluks or areas to be included in it. It has been contended alternatively that the proposed inclusion of some Taluks in the new Districts amounted to a proposal for retention of other Taluks in the existing Districts and upon consideration of objections to the aforesaid

proposals, the Respondent were justified in directing the exclusion of the aforesaid Taluks from the existing Districts and their inclusion in the new Districts.

28. In order to appreciate the rival contentions of the parties, it is necessary to have a perusal of the relevant Sections of the Act.

Section 4 of the Act provides:

“State to be divided into Divisions, Divisions into Districts and Districts to consist of Taluks comprising Circles and Villages:-

(1) The State Government may, by notification, determine the areas in the State which shall form a division and may by notification, after the limits of or abolish the division so formed.

(2) Each division shall be divided into such districts with such limits, as may, by notification, be determined by the State Government.

(3) Each district determined under sub-section (2) shall consist of such taluks and each taluk shall consist of

such circles and each circle shall consist of such villages as may, by notification be determined by the State Government.

(4) The State Government may by notification after the limits of any district, taluk or circle may create new, or abolish existing districts, taluks or circles.

(5) The divisions, districts, taluks, circles (by whatever name called) and villages as they exist immediately before the commencement of the Act, shall remain as they are for the purposes of this Act until altered by the State Government by notifications under sub-sections (1),(2),(3) and (4).

Section 6 of the Act provides:

“Procedure for constitution, abolition, etc., of divisions, taluks, circles or villages:- Before the publication of any notification under Section 4 or 5 declaring any area to be a division, district, taluk, circle or village or altering the limits of any

division, district, taluk, circle or village, or abolishing any division, district, taluk, circle or village, the State Government shall except in cases where it considers not necessary so to do publish in the official Gazette and in such other manner as may be prescribed, a notice of the proposal inviting objections and shall take into consideration any objections to such proposal”.

29. A perusal of the aforesaid Sections with reference to the controversy in the present Writ Petitions would indicate that the State Government has the power to alter the limits of any District, Taluk or Circle and create new, or abolish existing Districts, Taluks or Circles. The Divisions, Districts, Taluks, Circles and Villages as they existed before the commencement of the Act were to continue until altered by the State Government by Notification issued in accordance with the procedure prescribed under the Act. Before the publication of any Notification for altering the limits of any District, Taluk or

Circle and for creating new, or abolishing existing Districts, Taluks or Circles, the State Government is under an obligation to publish in the Official Gazettee a notice of the proposal inviting objections and to take into consideration any objections to such proposal. Such a publication of the notice may be dispensed with in the discretion of the Government in cases where it considers not necessary so to do. Admittedly, the State Government, in the instant cases have not opted to exercise the option and the discretion vested in it regarding the dispensation of publication of the proposal. Section 6 clearly and unambiguously in general mandates the issuance of proposal and inviting of objections in relation to such proposal, which are required to be considered before publication of the Notification of creating new or abolishing the existing Districts, Taluks or Circles in terms of Section 4(4) of the Act. The words "proposal inviting objections" and the words of 'any objections to such proposal' appearing in Section 6 are not only relevant, but of great importance. The publication envisages a proposal and objections requiring consideration are intended to be with respect to the proposal made. In the absence of proposal, no objections could be filed nor considered. Without

proposal, objections and consideration, the Respondent-State had no jurisdiction of inclusion of new areas into the newly created Districts for which the proposal was published. The submission that the proposal made for inclusion of some Taluks in the newly created Districts also amounted to publication of proposal with respect to the retention of the Taluks in the existing District regarding which objections could be filed, though in genuine and attractive yet cannot be accepted being without any substance.

30. The Dictionary meanings of the word 'proposal' are to put forward; to put before one's own or another's mind ; to offer for consideration or acceptance; to formulate as something to be exacted; to suggest or lay — before one~~s~~ as something to be done; to invite the comments regarding the proposal; to put forward an — intention~~on~~ or design.

31. Proposal within the meaning of Section 6 should be direct and specific and cannot be left be inferred or presumed by application of imaginative mind.

Objections could be raised only to a subject or matter presented, offered and proposed and not with respect to a matter which was allowed to be retained in the existing Districts. Sub-section (5) of Section 4 clearly provides that the Divisions, Districts and Taluks which were not proposed to be altered, abolished or bifurcated were deemed to remain as they existed at the time of the commencement of the Act.

32. It was faintly argued on behalf of the Respondents that as the Act does not confer any right upon the residents of the areas, which are to be included or excluded, the omission to make proposal and affording the opportunity of filing the objections can at the best be held to be an irregularity not affecting the legality and constitutionality of the impugned Notification. Such a plea was considered and rejected by the Supreme Court in BALDEV SINGH AND OTHERS vs. STATE OF HIMACHAL PRADESH AND OTHERS (AIR 1987 SC 1239) , wherein it was held:

“Appellants’ counsel has raised a more serious issue, namely denial of an opportunity of being heard before

the notified area has been constituted. Since S.256 of the Act requires certain aspects to be satisfied before a notified area can be constituted, factual determination had to be made as to whether those statutory conditions were satisfied . Ours is a democratic polity. At every level, from the villages up to the national level, democratic institutions have been introduced. The villages are under Gram Panchayats, urban areas under Municipalities and Corporations, districts are under Parishads; for the State there is a Legislature and for the entire country, we have the Parliament. People residing within Gram Panchayats have their electoral rights to exercise and in exercise of such rights, they have elected their representatives. Citizens of India have a right to decide, what should be the nature of their society in which they live - agrarian, semi-urban or urban. Admittedly, the way of life varies, depending upon

where one lives. Inclusion of an area covered by a Gram Panchayat within a notified area would certainly involve civil consequences. In such circumstances it is necessary that people who will be affected by the change should be given an opportunity of being heard, otherwise they would be visited with serious consequences like loss of office in Gram Panchayats, an imposition of a way of life, higher incidences of tax and the like”.

33. The learned Counsel appearing for the Respondents further submitted that as in the Notification issued under Section 6 of the Act the State Government had invited objections or suggestions, they were justified to consider the suggestions made in response to the notice for inclusion of the aforesaid two Taluks in the newly created Districts. Such a plea has no legs to stand both factually as well as legally. Suggestions as invited are not contemplated under Section 6 and consideration of such suggestions could not be made a basis for inclusion of the aforesaid two Taluks in the newly

created Districts. Suggestion cannot be equated with objection as has been argued on behalf of the Respondents. Suggestion may be nearer to proposal, but definitely distinct from the objections. Suggestion even if treated as proposal should have its inception in the notice issued by the Government and could not be expected to originate from the general public. State power could not be obligated in favour of unspecified number of persons having no statutory power or obligation to make suggestion or offer keeping in view the relevant facts, the provisions of law and the object of the Act.

34. The impugned Notifications in W.P.Nos.22593-22594 of 1997 and 22571 of 1997 in so far as they direct the inclusion of Sindhanoor Taluk in Koppal District and Shiggaon Taluk in Haveri District respectively being against the mandatory provisions of law are liable to be quashed. The aforesaid Taluks are directed to be continued as part of Raichur and Dharwad District respectively. The Respondent-State if they desire to include the aforesaid Taluks in the newly created Districts are at liberty to issue fresh proposal and pass appropriate orders in accordance with the provisions of the Act

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and keeping in view the observations made herein above.
These three Writ Petitions shall stand allowed to the extent and
in the manner mentioned herein above. Rule issued is made
absolute. All other Petitions are dismissed. Costs made easy.


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